

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 4-99)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>07-0622-03E</b>
For use by Office of Administrative Law (OAL) only		2007 JUN 22 PM 3:48	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY State Allocation Board			AGENCY FILE NUMBER (if any)

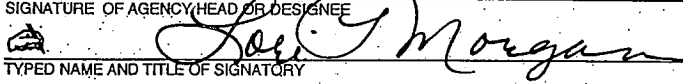
**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER ( )	FAX NUMBER (Optional) ( )
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Emergency Repair Program - AB 607		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)			
SECTION(S) AFFECTED. (List all section number(s) individually)	ADOPT Regulation Sections 1859.324.1 and 1859.330, and please refer to the Attachment.		
	AMEND Regulation Sections 1859.302, 1859.318, 1859.320, 1859.321, and please refer to the Attachment.		
	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above. <input type="checkbox"/> Print Only <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) <input type="checkbox"/> Other (specify)			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)			
5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON Robert Young		TELEPHONE NUMBER (916) 445-0083	FAX NUMBER (Optional) (916) 445-5526
		E-MAIL ADDRESS (Optional) robert.young@dgs.ca.gov	

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE June 20, 2007
TYPED NAME AND TITLE OF SIGNATORY Lori L. Morgan, Acting Executive Officer, State Allocation Board	

Attachment to Notice Publication/Regulations Submission, Form STD 400

B. SUBMISSION OF REGULATIONS, No. 2 (continued)

THE FOLLOWING REGULATION SECTIONS ARE AMENDED: 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328 AND 1859.329.

THE FOLLOWING FORM IS AMENDED:

~~Application for Reimbursement and Expenditure Report, Grant Request~~, Form SAB 61-03  
(~~New 02/05~~)(Revised 01/07), referenced in Regulation Section 1859.302

THE FOLLOWING FORM IS PROPOSED FOR ADOPTION:

Expenditure Report, Form SAB 61-04 (New 01/07), referenced in Regulation Section 1859.302

Amend Regulation Section 1859.302 as follows:

Section 1859.302. Definitions.

For the purposes of these Subgroup 5.7 regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:

"Accepted Application(s)" means a Local Educational Agency (LEA) has submitted the application and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the application as identified in the General Information and Required Documentation section of the Form SAB 61-03, *Grant Request*, (Rev. 01/07), as appropriate, and the OPSC has accepted the application.

"Act" means California Education Code (EC) Sections 17592.70 through 17592.73, inclusive, and 41207.5.

"Apportionment" means an allocation of funds by the Board for eligible School Facilities Needs Assessment Grant Program or Emergency Repair Program expenditures costs.

"Accepted Application(s)" means a Local Educational Agency (LEA) has submitted the application and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the application as identified in the General Information Section of the Form SAB 61-03, *Application For Reimbursement and Expenditure Report*, (New 02/05), as appropriate, and the OPSC has accepted the application.

"Board" means the State Allocation Board as established by Section 15490 of the Government Code.

"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by the LEA to the California Department of Education (CDE).

"Certification of Eligibility" means the on-line worksheet provided by the OPSC and accessible through the OPSC Website at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov) for the purpose of a one-time determination of whether a school site meets the provisions of Section 1859.311(b).

"Cosmetic Repairs" means repairs that enhance the physical environment of the school and are not directly related to the mitigation of a health and safety hazard.

"Deferred Maintenance Program (DMP)" means the State deferred maintenance funding authorized by EC Sections 17582 through 17588, inclusive.

"Emergency Facilities Needs" means structures or systems that in their present condition pose an immediate threat to the health and safety of pupils and staff while at school.

"Emergency Repair Program (ERP)" means the repair program implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.

"Emergency Repair Program ERP Grant" means an Apportionment provided by the State to reimburse the LEA for eligible costs; pursuant to EC Section 17592.72 and Regulation Sections 1859.323, 1859.323.1, and 1859.323.2.

"Expended" means work has been completed, or services rendered, and a warrant has been issued for payment.

"Employee" means an individual that is a classified or certificated temporary, probationary or permanent employee receiving a warrant as payment from the LEA.

"Expended" means work has been completed, or services rendered, and a warrant has been issued for payment.

"Form SAB 61-01" means the *Needs Assessment Report*, Form SAB 61-01 (New 01/05), which is incorporated by reference.

"Form SAB 61-02" means the *Expenditure Report*, Form SAB 61-02 (New 02/05), which is incorporated by reference.

"Form SAB 61-03" means the *Grant Request Application For Reimbursement and Expenditure Report*, Form SAB 61-03 (New 02/05 Rev 01/07), which is incorporated by reference.

"Form SAB 61-04" means the *Expenditure Report*, Form SAB 61-04 (New 01/07), which is incorporated by reference.

"Grant" means an apportionment for a request for an Emergency Repair Program project.

"Grant Adjustment" means an increase or a decrease in the Grant after review of the Form SAB 61-04.

"Interim Evaluation Instrument" means the evaluation tool developed pursuant to EC Section 17002(d)(2).

"Like-Kind Material/System" means a building material or system that is substantially identical in function to the existing building material or system to be replaced.

"Local Educational Agency (LEA)" means a school district or county office of education meeting the requirements of Section 14101(18)(A) or (B) of the federal Elementary and Secondary Education Act of 1965.

"LEA Representative" means a member of the LEA staff or other agent authorized to execute and file application(s) with the Board on behalf of the LEA and/or act as liaison between the Board and the LEA.

"Local Educational Agency (LEA)" means a school district or county office of education meeting the requirements of Section 14101(18)(A) or (B) of the federal Elementary and Secondary Education Act of 1965.

"Needs Assessment" means the review of the facilities conducted pursuant to the Section 1859.315(c), the Form SAB 61-01 and EC Section 17592.70.

"Needs Assessment Grant" means the funding provided pursuant to EC Section 17592.70(c) and Sections 1859.312 and 1859.313.

"Nonessential Repairs" means work that is not directly related to the mitigation of a health and safety hazard including, but not limited to, repairs to correct items not in compliance with Title 24 of the California Code of Regulations that existed prior to and are not an Emergency Facilities Needs.

"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the School Facilities Needs Assessment Grant Program and the Emergency Repair Program.

"Pupil" means a student enrolled in any grade Kindergarten through grade twelve including individuals with exceptional needs meeting the provisions of EC Section 56026.

"Ready for Apportionment" means a review of an Accepted Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an Apportionment, and the OPSC will recommend approval to the Board.

"Routine Restricted Maintenance Account" means the account into which funds are deposited by LEAs pursuant to EC Section 17070.75.

"School Facilities Emergency Repair Account" means the account established by the OPSC pursuant to EC Section 17592.71(a).

"School Facilities Needs Assessment Grant Program" means the one-time assessment of school facilities implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.

"School Facility Program (SFP)" means the Leroy F. Greene School Facilities Act of 1998, commencing with EC Section 17070.10.

"Section" means a section in these Subgroup 5.7 regulations.

"Unfunded List" means an information list of unfunded projects including projects partially funded on a prorated basis pursuant to Section 1859.322 (b)(1).

"Web-Based Needs Assessment" means the on-line Form SAB 61-01 provided by the OPSC and accessible through the OPSC Website at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov) for the one-time purpose of submitting the Needs Assessment data electronically.

"Web-Based Progress Report Survey" means the on-line worksheet provided by the OPSC and accessible through the OPSC Website at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov) for the purpose of submitting a one-time report on the progress made toward completing the Needs Assessment.

"Web-Based Needs Assessment" means the on-line Form SAB 61-01 provided by the OPSC and accessible through the OPSC Website at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov) for the one-time purpose of submitting the Needs Assessment data electronically.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70, 17592.71, 17592.72 and 17592.73, Education Code.

Amend Regulation Section 1859.318 as follows:

Section 1859.318: Supplement, Not Supplant, Needs Assessment Grant Funds.

Needs Assessment Grant funds remaining after the completion of the Needs Assessment must be used for repairs authorized in Section 1859.313(b) and must be used to supplement, not supplant, funds already available for routine,

deferred, planned and scheduled maintenance, or emergency repairs of school facilities. In accordance with this requirement, the LEA must comply with all of the following in the 2005/2006 fiscal year:

- (a) Deposit the funding level required pursuant to EC Section 17070.75 in the Routine Restricted Maintenance Account, if participating in the SFP.
- (b) Deposit an amount equal to the State's matching share of the basic grant pursuant to EC Section 17584, if participating in the DMP.
- (c) If either (a) or (b) are not applicable, the district must budget an amount not less than the average maintenance budget for the three previous fiscal years.
- (d) In an effort to ensure that each of its schools is maintained in good repair, the LEA shall expend or encumber by issuing a purchase order or entering into a legal contract or document, or dedicate funds from the sources listed in subsections (a) through (c); above, to correct problems identified in the facilities inspection system required pursuant to EC Section 17070.75(e), which may include items listed in the DMP five-year plan, or the Interim Evaluation Instrument that do not qualify for funding as described in EC Section 17592.72(c)(1). For those projects eligible for ERP funding, the LEA may seek reimbursement funding at any time provided that the LEA has or will meet the above requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Amend Regulation Section 1859.320 as follows:

#### Section 1859.320. General.

An LEA seeking an ~~Emergency Repair Program~~ ERP Grant for reimbursement funding of costs for repairs or replacement of existing structural components or building systems that posed (d) a health and safety threat to the pupils or staff while at school, as defined by EC Section 17592.72(c)(1), shall submit to the OPSC a completed and file a Form SAB 61-03 with the OPSC. Each Form SAB 61-03 filed with the OPSC may consist of the repair or replacement of only one building component or system and any work directly related to that repair or replacement.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.321 as follows:

#### Section 1859.321. Eligible Schools.

Eligible schools are determined as follows:

- (a) For fiscal years 2004-05 to 2006-07, inclusive, a ~~An~~ LEA that has a school site meeting all of the following is eligible to submit a Form SAB 61-03:
  - ~~(a)(1)~~ (1) The school was identified on the list published by the CDE pursuant to EC Section ~~17592.70(b)~~ 17592.72.
  - ~~(b)(2)~~ (2) The school was newly constructed prior to January 1, 2000.
- (b) For subsequent fiscal years, an LEA that has a school site that is identified by the CDE pursuant to EC Section 17592.72 is eligible to submit a Form SAB 61-03.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.322 as follows:

Section 1859.322. Emergency Repair Program Project Funding Order.

The Board shall fund ERP applications make apportionments on a monthly basis for Grants in the order of receipt of an Accepted Application and for Grant Adjustments in the order of receipt of a complete Form SAB 61-04, as follows:

- (a) If sufficient funding is available to provide funding to all applications presented that month, all applications will receive an full and final aApportionment of the eligible costs.
- (b) If funding is insufficient in any given month:
  - (1) Apportionments Grants will be provided to each application on a prorated basis with the balance placed on the Unfunded List, unless the proration will result in funding less than 25 percent of the eligible project costs. The proration shall be determined by dividing the total funds available by the total eligible costs of all applications Ready for Apportionment. All Grant Adjustments will be placed on the Unfunded List.
  - (2) If the proration, as determined in (1) above, will be less than 25 percent of the eligible project costs, the Board shall provide Grant funding at 100 percent of the eligible project costs of the Grants based on date order received until funds are no longer available and the remaining Grant applications shall be placed on the Unfunded List. All Grant Adjustments will be placed on the Unfunded List.
  - (3) The Board will continue to accept and process applications for the purpose of developing an Unfunded List based on the order of receipt of the Accepted Applications.

When funds become available, projects on the Unfunded List will be apportioned in the order of date received. From available funds, Grants will be funded first and Grant Adjustments will be funded second. After an Apportionment has been made by the Board, funds will be released automatically by the OPSC, and If local funds have been expended, the Apportionment must be used by the LEA to reimburse the special reserve fund and the original source of funds used to make the LEA expenditures for the ERP project.

Once eight hundred million dollars (\$800,000,000) has been apportioned by the Board all ERP funds have been depleted, any applications that have received a prorated Apportionment, a Grant, or a Grant Adjustment will be deemed a full and final Apportionment; any applications remaining fully unfunded on the Unfunded List will be returned to the LEA, and the Unfunded List shall be dissolved.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.71 and 17592.72, Education Code.

Amend Regulation Section 1859.323 as follows:

Section 1859.323. Eligible Project Costs.

Reimbursement Funding will be provided to meet the LEA share of the repair costs of Emergency Facilities Needs as defined in Education Code Section 17592.72(c)(1). To be eligible for funding consideration, the total project cost request on the Form SAB 61-03 must be \$5000 or higher unless the LEA can justify its request for a lesser amount. Reimbursement Funding of eligible projects costs shall be limited to the minimum work required on existing structural components or building systems to mitigate the health and safety hazard, plus application documentation preparation and submittal costs, if any, as permissible under Regulation Section 1859.323.2(j).

Replacement of existing structural components or building systems is permissible provided the project is in compliance with provisions of Section 1859.323.1.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.323.1 as follows:

Section 1859.323.1. Replacement Projects

Full reimbursement Funding of eligible replacement costs shall be provided only if it is more cost-effective to replace rather than repair a structural component or building system that poses a health or safety threat to pupils or staff while at school. For purposes of this section, it is more cost-effective to replace a structural component or building system when the estimated cost of an eligible repair is at least 75 percent of the cost of replacement.

If the cost to repair the component or system is less than 75 percent of the current replacement cost and the district elects to replace the component or system, then reimbursement Grant funding shall be equal to the lesser of either:  
(a) The cost of repair divided by the estimated cost to replace, multiplied by the actual eligible replacement cost  
(b) The estimated cost of repair. Projects that use this option are not eligible for an increase to the Grant at the time of Grant Adjustment pursuant to Section 1859.324.1.

If the request is for replacement components or systems, a cost comparison must be prepared and submitted with the Form SAB 61-03 to the OPSC. The cost comparison shall consist of a repair cost estimate and a Like-Kind Material/System replacement cost estimate provided by qualified individual(s) or firm(s).

Replacement of a structural component or building system shall be limited to the use of a Like-Kind Material/System except when the work in the project proposes to use an alternative building material or system which is requested by the LEA and is less costly than a Like-Kind Material/System replacement. The cost comparison must also include the estimated cost of replacement using an alternative building material or system. If replacement with an alternate material/system is more costly than replacement with a Like-Kind Material/System, the LEA will receive funding for the alternate material/system in an amount not to exceed the cost of replacement with a Like-Kind Material/System. If it is determined that the only possible replacement is with the alternate material/system, the LEA will receive funding for the actual cost of replacement with the alternate material/system.

If the request is for replacement components or systems that included structural deficiencies, the cost comparison must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect's approval.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.323.2 as follows:

Section 1859.323.2. Ineligible Expenditures.

An Emergency Repair Program Grant may not be used for any of the following:

- (a) New square footage, components, or building systems that did not previously exist.
- (b) Nonessential Repairs.
- (c) Cosmetic Repairs.
- (d) Land acquisition.
- (e) Furniture and equipment.
- (f) Salaries of LEA employees except when permitted pursuant to Public Contract Code Section 20114.
- (g) Costs covered under warranty or by insurance.
- (h) Costs normally borne by others including, but not limited to, public utility companies.
- (i) Costs to repair or replace facilities with structural damage if the project meets the facility hardship or rehabilitation criteria set forth in School Facility Program Regulation Sections 1859.82 and 1859.83(e).

- (i) Application documentation preparation and submittal costs that exceed two percent of the total project cost or \$5,000, whichever is less. The total project cost shall be calculated by adding all other eligible costs and re-calculated upon the grant adjustment determination pursuant to Section 1859.324.1.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.324 as follows:

Section 1859.324. Reimbursement Funding.

An Emergency Repair Program Grant shall be used to reimburse fund the LEA's for eligible costs, as defined by Sections 1859.323 and 1859.323.1, that meet all of the following provisions as follows:

- (a) For schools ranked in deciles one to three, inclusive, based on the 2003 Academic Performance Index that meet requirements defined by Section 1859.321(a) and all of the following provisions:
- (a)(1) If contracts for services or work were signed for the project, contracts must have been entered into on or after September 29, 2004.
- (b)(2) Funds must have been Expended on or after September 29, 2004 and prior to the submittal of the Form SAB 61-03 to the OPSC.
- (3) Accepted Applications on or before June 30, 2007. If these ERP regulations are not in effect by March 31, 2007, LEAs may submit applications for 90 days following the effective date of the regulations.
- (b) For schools ranked in deciles one to three, inclusive, based on the 2006 Academic Performance Index that meet requirements defined by 1859.321(b) and all of the following provisions:
- (1) If contracts for services or work were signed for the project, contracts must have been entered into on or after July 1, 2005.
- (2) Funds must have been Expended on or after July 1, 2005.
- (3) Accepted Applications on or before June 30, 2010.
- (c) For schools ranked in deciles one to three, inclusive, based on the 2009 Academic Performance Index that meet requirements defined by 1859.321(b) and all of the following provisions:
- (1) If contracts for services or work were signed for the project, contracts must have been entered into on or after July 1, 2008.
- (2) Funds must have been Expended on or after July 1, 2008.
- (3) Accepted Applications on or before June 30, 2013.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Adopt Regulation Section 1859.324.1 as follows:

Section 1859.324.1. Grant Adjustments

After review of a Form SAB 61-04, projects that require a Grant Adjustment will be presented to the Board for approval based upon one of the following review determinations:

- (a) If the expenditures are less than the Grant, the Grant will be deemed the full and final apportionment for the project and the OPSC shall recommend to the Board that the Apportionment be reduced by the amount of savings realized by the LEA. The savings, which include any interest earned on the Grant funds, either declared by the LEA or determined by the OPSC, must be returned to the State. Upon the approval of the recommendation by the Board, the LEA must submit a warrant for any amount identified as being owed within 60



days of the Board's action. If the LEA fails to make the required payment within 60 days, the OPSC shall notify the Controller and the LEA in writing, and the Controller shall deduct an amount equal to the amount received by the LEA under this subdivision from the LEA's next principal apportionment or apportionments of state funds to the LEA, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained pursuant to this Section shall be deposited into the School Facilities Emergency Repair Account and will be made available for the funding of future ERP Grants and Grant Adjustments.

- (b) If the expenditures are greater than the Grant apportionment, provided the additional expenditures are associated with the project's original scope, the OPSC shall recommend to the Board that the Apportionment be increased. The Grant Adjustment will be deemed as the full and final apportionment for the project.
- (c) If the expenditures are equal to the Grant, no further Board action is necessary. The Grant will be deemed as the full and final apportionment for the project.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

#### Section 1859.325. School Facility Due Diligence.

To ensure that the LEA is exercising due diligence in the administration of its facility accounts and is using an Emergency Repair Program Apportionment to supplement existing funding for the maintenance of school facilities, the OPSC may conduct a review of the LEA's facility maintenance accounts pursuant to the provisions of Section 1859.328.

In the event that the Board finds that an LEA is failing to exercise due diligence or supplanting has occurred, the Board shall notify the county superintendent of schools in which the LEA is located and may deny future funding under these regulations.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.326 as follows:

#### Section 1859.326. ~~Emergency Repair Program Application Expenditures and Audit.~~

The projects shall be subject to audit to ensure that the expenditures incurred by the LEA were made in accordance with the provisions of Sections 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.327, and 1859.328 through 1859.325, inclusive.

After a full and final Apportionment has been made pursuant to Regulation Section 1859.324.1, and should the OPSC notifies the LEA of an impending ERP audit of the expenditures reported on the Form SAB 61-034, an audit by the OPSC shall commence within six months. Once the audit has commenced, the OPSC shall complete the audit within six months of the notification unless additional information requested from the LEA has not been received.

Should the OPSC conduct an audit of the expenditures and information provided by the LEA, which may include certifications, for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of EC Section 17592.72(c) and Regulation Sections 1859.323 through ~~1859.325~~ 329 inclusive, the OPSC shall recommend to the Board that the Apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the LEA must submit a warrant for any amount identified as being owed within ~~30~~ 60 days of the Board's action. If this does not occur, the OPSC shall initiate collection procedures as delineated in 1859.324.1(a).

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72 and 17592.73, Education Code.

#### Section 1859.327. Duplication of Emergency Repair Program Expenditures.

If the LEA's expenditures for the Emergency Repair Program Grant involve proposed work also included in a SFP or DMP project, the LEA must ensure all of the following:

- (a) No work or expenditures are duplicated.
- (b) After eliminating the work to be funded with the Emergency Repair Program Grant from the SFP or DMP project, the remaining work continues to meet the SFP or DMP requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

#### Amend Regulation Section 1859.328 as follows:

##### Section 1859.328. Supplement, Not Supplant, Emergency Repair Program Grant Funds.

Emergency Repair Program Grant funds must be used to supplement, not supplant funds already available for routine, deferred, planned and scheduled maintenance, or emergency repairs of school facilities. In accordance with these requirements, the LEA must comply with all of the following at the time the Accepted Application and the Form SAB 61-04 are submitted to the OPSC:

- (a) Deposit the funding level required for the current fiscal year pursuant to EC Section 17070.75 in the Routine Restricted Maintenance Account, if participating in the SFP.
- (b) If participating in the DMP, the district:
  - (1) For applications submitted prior to January 1, 2006, has deposited an amount equal to the State's matching share of the maximum basic grant, calculated pursuant to EC Section 17584, for the latest available determination; and
  - (2) For applications submitted on or after January 1, 2006, has deposited an amount equal to the maximum basic grant, calculated pursuant to EC Section 17584, for the latest available determination; and
  - (3) Will deposit an amount equal to the maximum basic grant, calculated pursuant to EC Section 17584, for the next scheduled determination.
- (4) Shall not transfer excess local funds in accordance with EC Section 17583 from the deposits made as specified in (2) and (3), above.
- (c) If either (a) or (b) are not applicable, the district must budget for the current fiscal year an amount not less than the average maintenance budget for the three previous fiscal years.
- (d) In an effort to ensure that each of its schools is maintained in good repair, the LEA shall expend or encumber by issuing a purchase order or entering into a legal contract or document, or dedicate funds from the sources listed in subsections (a) through (c), above, to correct problems identified in the facilities inspection system required pursuant to EC Section 17070.75(e), which may include items listed in the DMP five-year plan, or the Interim Evaluation Instrument that do not qualify for funding as described in EC Section 17592.72(c)(1). For those projects eligible for ERP funding, the LEA may seek reimbursement funding at any time provided that the LEA has or will meet the above requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Amend Regulation Section 1859.329 as follows:

Section 1859.329. Withdrawal and Amendment of Applications.

In the event an LEA has omitted costs expenditures from the Form SAB 61-03 at the time of submittal and the project has not received an Grant Apportionment from the Board, the LEA may withdraw its application and resubmit a revised Form SAB 61-03. The resubmitted application shall receive a new processing date by the OPSC. If the Board has already provided an Grant apportionment for the project, the LEA may request the additional cost on the Form SAB 61-04. Additional expenditures must be associated with the project's original scope. If the Board has already provided an Apportionment- Grant Adjustment for the project, the LEA will not be able to receive additional funding for the project and the Apportionment provided by the Board will be considered full and final.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Adopt Regulation Section 1859.330 as follows:

Section 1859.330. Time Limit on Grant Apportionment.

The LEAs that receive ERP Grants shall comply with all of the following provisions:

(a) When the Division of the State Architect's review and approval is not required, within 12 months of the Grant apportionment the LEA shall:

- (1) Complete the emergency repair or replacement; and
- (2) Submit the Form SAB 61-04 to the OPSC.

(b) When the Division of the State Architect's review and approval is required, within 18 months of the Grant apportionment the LEA shall:

- (1) Complete the emergency repair or replacement; and
- (2) Submit the Form SAB 61-04 to the OPSC.

If the LEA does not meet the Time Limit on Grant Apportionment, the Apportionment will be rescinded without further Board action. Within 60 days of the OPSC notification, the LEA must submit to the State a warrant for the amount of the Apportionment and any interest earned on State funds. If this does not occur, the OPSC shall initiate collection procedures as delineated in 1859.324.1(a). Any rescinded funds returned to the State will be made available for the funding of future ERP Grants and Grant Adjustments. The LEA may re-file Form SAB 61-03 to request a Grant for the rescinded projects provided it meets the provisions of Section 1859.324 at the time of re-filing.

Note: Authority Cited: Sections 17592.72 and 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

# APPLICATION FOR REIMBURSEMENT AND EXPENDITURE REPORT EMERGENCY REPAIR PROGRAM

SAB-61-03 (NEW 02/05)

## GENERAL INFORMATION

An Local Educational Agency (LEA) may use this form to apply for reimbursement of Emergency Facilities Needs repairs under the Emergency Repair Program (ERP) at eligible school sites as defined by Section 1859.321. For purposes of this apportionment the following documentation must be submitted with this form:

### Part A

- ✓ Documentation that sufficiently substantiates the health and safety threat, which may include but is not limited to the following:
  - Photos showing the condition of the project prior to the repair work being performed
  - Signed copy of the Interim Evaluation Instrument (IEI) identifying the health and safety hazard
  - Copies of complaints made by parents, students, or staff referencing the problem
  - Inspection report by qualified individual(s) or firm(s)
- ✓ A cost comparison(s) prepared pursuant to Section 1859.323.1 (if applicable).
- ✓ Division of the State Architect (DSA) approved specifications and plans (if applicable). The plans must clearly delineate the scope of eligible ERP work in the project.

### Part B

- ✓ Copy of all construction contracts and schedule of values
- ✓ Copy of all change orders (if applicable)
- ✓ Copy of all purchase orders or purchase agreements (if applicable)
- ✓ Copy of architect agreement and schedule of fees

The closeout audit will be performed after the final apportionment is made by the Board in accordance with Regulation Section 1859.326. For audit purposes, additional documentation may be requested at a later date.

## SPECIFIC INSTRUCTIONS

### Part A. Project Information

1. **Type of Health and Safety Project:** Check the appropriate box to indicate if the LEA had to repair or replace the building system or component to mitigate the health and/or safety threat.
2. **Type of Project:** Check the box indicating the type of building system or structural component the application is addressing. The LEA may check only one building system or structural component project per application. Multiple applications may be submitted per school site.
3. **Type of Facility:** Check the box(es) that identify the location(s) where the repair work was performed.
4. **School Construction Date:** Indicate the year of construction for the original buildings on campus. The year of construction shall be considered the date the Notice of Completion was filed with the county recorder, if available. If the Notice of Completion is not available, the LEA may use the year of occupancy as evidenced by historical record.  
NOTE: The LEA may not submit a Form SAB-61-03 for a school site which was newly constructed on or after January 1, 2000.
5. **Facilities/Site—Owned or Leased:** Please indicate whether the facilities and site are owned or leased by the LEA submitting this application.
6. **Statement of Condition:** Provide a concise statement of the conditions that posed a threat to the health and safety of the students and staff at the school site.

7. **Description of Work/Scope of Project:** Provide a detailed narrative of the repairs that were required to mitigate the threat to the health and safety of students and staff as defined by Sections 1859.323 and 1859.323.1.
8. **Project Costs:** Provide a breakdown of eligible project cost information based on the LEA's actual expenditures. The total should match the total amount of expenditures listed in Part B of the form. This must include only costs directly related to and necessary for the eligible project as defined by Sections 1859.323, 1859.323.1, and 1859.323.2.

### Part B. Expenditure Report

List the total expenditures for the project.

#### 1. Planning

- ✓ **School Site:** enter the school site.
- ✓ **LEA:** enter the LEA.
- ✓ **County:** enter the county.
- ✓ **Application Number:** enter the application number.
- ✓ **Date:** enter the date.
- ✓ **Payee:** enter the payee.
- ✓ **Warrant Number:** enter the warrant number.
- ✓ **Architect/Engineering Fees:** enter the fees as negotiated in the architect's agreement to design and engineer the construction project.
- ✓ **DSA Fees:** enter the fees as determined by the DSA as required by law.
- ✓ **Inspections:** enter the amount paid for inspection services provided.
- ✓ **Other Costs:** enter any other planning costs.
- ✓ **Description/Purpose:** enter the description/purpose.

#### 2. Construction

- ✓ **School Site:** enter the school site.
- ✓ **LEA:** enter the LEA.
- ✓ **County:** enter the county.
- ✓ **Application Number:** enter the application number.
- ✓ **Date:** enter the date.
- ✓ **Payee:** enter the payee.
- ✓ **Warrant Number:** enter the warrant number.
- ✓ **Main Construction:** enter the amount paid to the main building contractor.
- ✓ **Construction Management:** enter the amount paid to the construction manager of the project to supervise the building construction.
- ✓ **Demolition:** enter any costs associated with the demolition of existing buildings in preparation for construction.
- ✓ **Other Construction:** enter any construction costs not included in the main construction contract.
- ✓ **Hazardous Waste Removal:** enter the costs to remove hazardous material from the school site including Department of Toxic Substances Control (DTSC) fees, California Department of Education (CDE) fees, preliminary endangerment assessment costs, phase one environmental site assessment costs, and the response/removal action plan costs as required by DTSC.
- ✓ **Description/Purpose:** enter the description/purpose.

### Certifications

The LEA representative must complete this section:

- |                                  |    |
|----------------------------------|----|
| I. Planning Cost:                | \$ |
| II. Repair/Replacement Cost:     | \$ |
| III. Testing:                    | \$ |
| IV. Inspection:                  | \$ |
| IV. Total Project Reimbursement: | \$ |

## Part B. Expenditure Report

**Total Expenditures for the Project: \$ \_\_\_\_\_**

## 1. Planning

[illegible]

## Part B. Expenditure Report

## **2. Construction**

[illegible]

**APPLICATION FOR REIMBURSEMENT AND EXPENDITURE REPORT  
EMERGENCY REPAIR PROGRAM**

SAB-61-03 (NEW-02/05)

**Certifications**

I certify, as the LEA Representative, that the information reported on this form is true and correct and that:

- ✓ I am designated as an authorized representative by the governing board of the LEA; and;
- ✓ The repairs in this project were necessary to mitigate conditions that posed a threat to the health and safety of pupils or staff while at school; and;
- ✓ The LEA has complied with all laws pertaining to the repair of its school facilities;
- ✓ The LEA has complied with the Public Contract Code; and;
- ✓ The LEA has satisfied the supplement, not supplant requirement as defined in Section 1859.328; and;
- ✓ The contracts for services or work in this project were not entered into prior to September 29, 2004; and;
- ✓ The LEA understands that expenditures occurring after the submittal of this application are ineligible for reimbursement; and;
- ✓ The grant amount provided by the SAB shall be deemed full and final apportionment; and;
- ✓ The LEA understands that some or all of the funding for the project may be returned to the State as a result of an audit pursuant to Regulation Section 1859.326;
- ✓ The LEA has obtained the Division of State Architect's approval of the plans and specifications, if required; and;
- ✓ This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

NAME OF LEA REPRESENTATIVE (PRINTED OR TYPED)

TITLE

SIGNATURE OF LEA REPRESENTATIVE

DATE



Local Educational Agencies (LEAs) are encouraged to consider the utilization of "environmentally preferable purchasing" (EPP) for all their projects, including those projects seeking funding under the Emergency Repair Program (ERP). EPP is the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose. It provides an opportunity to improve the overall health and safety conditions at school facilities. Though the ERP is intended to provide funding for the minimal work necessary for the mitigation of health and safety risks, this objective can often be met with the utilization of EPP. More information about EPP products and sources can be found on the Green California Web site at [www.green.ca.gov/EPP](http://www.green.ca.gov/EPP).

### **GENERAL INFORMATION AND REQUIRED DOCUMENTATION**

The LEA shall use this form to apply for funding of Emergency Facilities Needs repairs under the Emergency Repair Program (ERP) at eligible schools sites as defined by Section 1859.321. An LEA must submit the following documentation with this form for each project requested on this application:

1. **Documentation:** Provide documentation that sufficiently substantiates the health and safety threat, which must include one or more of the following, as appropriate:
  - Signed copy of the Interim Evaluation Instrument (IEI) identifying the project as a health and safety threat
  - Copies of complaints made by parents, students, or staff referencing the problem
  - Inspection report by qualified individual(s) or firm(s)
  - Work orders that identify the health and safety threat
  - Photos showing the condition of the project prior to the repair work being performed
  - Other forms of documentation that substantiate the health and safety threat
2. **Cost Estimate:** All estimates must be as detailed as possible and no lump sum estimates will be accepted. Furthermore, the estimates must have been prepared by qualified individuals or firms. For force account labor projects, LEAs may provide an estimate by submitting a completed Force Account Labor Worksheet, which is available on the OPSC Web site.

The LEA must retain the following documents on file should the OPSC request them at the time of audit (see Part C, Certifications):

1. DSA Approved Plans and Specifications, if required
2. For Replacement Projects (pursuant to Regulation Section 1859.323.1), LEAs must retain a cost comparison on file which must include all of the following:
  - Estimate to Repair the system/component
  - Estimate to Replace the system/component with a Like-Kind Material/System
  - For alternative building material/system replacement projects, the LEA must additionally retain an Estimate to Replace the system/component with an alternative building material/system

All estimates must be as detailed as possible and no lump sum estimates will be accepted. Furthermore, the estimates must have been prepared by qualified individuals or firms but are not required to be prepared by the same person(s).

### **SPECIFIC INSTRUCTIONS**

#### **Part A. Project Information**

The LEA must complete one Project Detail box for each Type of Project that will be/has been repaired or replaced.

- **DSA Approval:** If any of the work indicated in any of the Project Detail boxes requires DSA approval, the LEA must check "Yes." Otherwise the LEA must check "No."
- **Type of Project:** Choose project type indicating the type of building system or structural component the project is addressing. The LEA may indicate only one building system or structural component per Project Detail box completed. Multiple Project Detail boxes may be completed. Use additional sheets if necessary.
- **Project(s) Cost:** Provide the total eligible cost based on the LEA's estimate(s) and/or actual cost(s).
- **Statement of Health and Safety Condition:** Provide a concise statement of the condition(s) and how it posed/poses a threat to the health and safety of the students and staff at the school site.
- **Type of Health/Safety Document(s) Attached:** Check the box(es) that identifies the type of health/safety document(s) enclosed with the LEA's application submittal.

#### **Part B. Total Grant Request**

Provide the Total Grant Request based on the combined total of the LEA's estimate(s) and/or actual cost(s) for all Types of Projects requested on this application. If the Total Grant Request is less than \$5,000.00, the LEA must justify its request in the space provided.

#### **Part C. Certifications**

The LEA representative must complete this section.

LOCAL EDUCATIONAL AGENCY (LEA)	APPLICATION NUMBER (OBSOLETE ONLY) <b>61/</b>
SCHOOL NAME	FIVE-DIGIT DISTRICT CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	SEVEN-DIGIT SITE CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)

**PROJECT TYPES:**

- |                           |  |                |                       |          |
|---------------------------|--|----------------|-----------------------|----------|
| • Communication Systems   | • Fire Detection/Alarm and/or Sprinkler System | • Gas          | • Hazardous Materials | • HVAC   |
| • Pest/Vermin Infestation | • Roofing                                      | • Wall Systems | • Windows/Doors/Gates | • Other  |
| • Electrical              |  |                |                       | • Paving |
| • Plumbing                |  |                |                       |          |

**A. PROJECT DETAIL (Complete one box for each type of project at this site. Use additional sheets if necessary.):**

Will any of the work in the project(s) contained in this Grant Request require DSA approval? ☐ Yes ☐ No

1. Type of Project (choose one from Project Types above):	
Project(s) Cost: <input type="checkbox"/> Estimate <input type="checkbox"/> Actual (check all that apply) \$	
Statement of Health and Safety Condition:	
Type of Health/Safety Document(s) Attached: <input type="checkbox"/> Photo <input type="checkbox"/> IEI <input type="checkbox"/> Complaint <input type="checkbox"/> Work Order <input type="checkbox"/> Inspection Report <input type="checkbox"/> Other	
2. Type of Project (choose one from Project Types above):	
Project(s) Cost: <input type="checkbox"/> Estimate <input type="checkbox"/> Actual (check all that apply) \$	
Statement of Health and Safety Condition:	
Type of Health/Safety Document(s) Attached: <input type="checkbox"/> Photo <input type="checkbox"/> IEI <input type="checkbox"/> Complaint <input type="checkbox"/> Work Order <input type="checkbox"/> Inspection Report <input type="checkbox"/> Other	
3. Type of Project (choose one from Project Types above):	
Project(s) Cost: <input type="checkbox"/> Estimate <input type="checkbox"/> Actual (check all that apply) \$	
Statement of Health and Safety Condition:	
Type of Health/Safety Document(s) Attached: <input type="checkbox"/> Photo <input type="checkbox"/> IEI <input type="checkbox"/> Complaint <input type="checkbox"/> Work Order <input type="checkbox"/> Inspection Report <input type="checkbox"/> Other	
4. Type of Project (choose one from Project Types above):	
Project(s) Cost: <input type="checkbox"/> Estimate <input type="checkbox"/> Actual (check all that apply) \$	
Statement of Health and Safety Condition:	
Type of Health/Safety Document(s) Attached: <input type="checkbox"/> Photo <input type="checkbox"/> IEI <input type="checkbox"/> Complaint <input type="checkbox"/> Work Order <input type="checkbox"/> Inspection Report <input type="checkbox"/> Other	

**GRANT REQUEST****EMERGENCY REPAIR PROGRAM**

SAB 61-03 (REV 01/07)

**B. TOTAL GRANT REQUEST:**

If the Total Grant Request is less than \$5,000.00, the LEA must justify this request in the space below.

**C. CERTIFICATIONS**

I certify, as the LEA Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized representative by the governing board of the LEA as of \_\_\_\_\_; and
- The repairs in this project were/are necessary to mitigate conditions that pose(d) a threat to the health and safety of pupils or staff while at school; and
- The LEA has/will complied/comply with all laws pertaining to the repair of its school facilities;
- The LEA has/will complied/comply with the Public Contract Code; and
- The LEA has satisfied the supplement, not supplant requirement as defined in Section 1859.328; and
- The contracts for services or work in this project were not entered into prior to the date specified in Section 1859.324; and
- The LEA understands that some or all of the funding for the project may be returned to the State as a result of an audit finding pursuant to Regulation Section 1859.326 and 1859.327;
- The LEA will/has complied with Regulation Section 1859.323.2(h) when making repairs to leased facilities; and
- The LEA has on file all cost estimates required for replacement projects as stipulated in the General Information and Required Documentation section on this form and will make these documents available in the event the OPSC requests them for purposes of audit; and
- The LEA will/has obtained the Division of State Architect's approval of the plans and specifications, if required, which will be/are on file at the LEA office for OPSC review; and
- The LEA will/has retain/retained on file all appropriate support documentation for this project. For the list of necessary documents please refer to the General Information and Required Documentation section of the Form SAB 61-04.
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

NAME OF LEA REPRESENTATIVE (PRINTED OR TYPED)		TITLE	
SIGNATURE OF LEA REPRESENTATIVE		DATE	
ADDRESS		CITY	STATE ZIP
TELEPHONE NUMBER		E-MAIL ADDRESS	

# EXPENDITURE REPORT EMERGENCY REPAIR PROGRAM

SAB 61-04 (NEW 01/07)

## GENERAL INFORMATION AND REQUIRED DOCUMENTATION

A Local Educational Agency (LEA) may use this form to report expenditures under the Emergency Repair Program (ERP) that support the Grant previously received. The LEA must retain the following documents, as appropriate, on file should the OPSC request them at the time of audit:

- Construction Contract(s) and supporting documentation [pursuant to Public Contract Code (PCC) Section 20111(b)]
- Schedule of Values
- DSA Approved Plans and Specifications and any change orders
- Cost comparison pursuant to Regulations Section 1859.323.1
- Purchase Order(s) and/or Purchase Agreement(s)
- Architect Agreement(s) and Schedule of Fees
- Qualification Appraisal documents (pursuant to Government Code 4526)
- Copy of Vendor Invoices
- Copy of Warrant(s) or Payment Voucher(s)
- For Force Account Labor Projects (pursuant to PCC Section 20114(a)), the OPSC Force Account Labor Worksheet or other documentation that contains the following information:
  - Employee name(s)
  - Number of hours each employee spent on project
  - Hourly wages

## SPECIFIC INSTRUCTIONS

### Part A. Project Detail

The LEA must complete one Project Detail line for each corresponding Project Detail box that was previously reported on the Form SAB 61-03. LEAs may print additional copies of page 2 as necessary to complete expenditure information.

- **Type of Project:** Choose project type indicating the type of building system or structural component for which the LEA previously requested funding on the Form SAB 61-03. The LEA may indicate only one building system or structural component per line. The numbered lines must correspond with the numbered Project Detail boxes on the Form SAB 61-03.

- **Project(s) Cost:** Provide a breakdown of the total eligible cost based on the LEA's actual cost(s).

### Part B. Total Expenditure Amount

Provide the total expenditures based on the combined Total Project Cost(s) as reported in the Project Details box(es).

### Part C. Certifications

The LEA representative must complete this section.

LOCAL EDUCATIONAL AGENCY (LEA)	APPLICATION NUMBER <b>61/</b>
SCHOOL NAME	FIVE-DIGIT DISTRICT CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	SEVEN-DIGIT SITE CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)

- PROJECT TYPES:
- Communication Systems

• Electrical

• Fire Detection/Alarm and/or Sprinkler System

• Flooring Systems

• Gas

• Pest/Vermin Infestation

• Plumbing

• Roofing

• Structural Damage

• Wall Systems

• Hazardous Materials

• HVAC

• Windows/Doors/Gates

• Other

• Paving

A. PROJECT DETAIL

Complete one Project Detail line for each Type of Project as previously reported on the Form SAB 61-03. LEAs may print additional copies of this page as necessary to complete expenditure information.

TYPE OF PROJECT (INDICATE PROJECT TYPE FROM ABOVE)	DSA NUMBER (IF APPLICABLE)	PLANNING COST	REPAIR/REPLACEMENT COST	TESTING	INSPECTION	TOTAL PROJECT COST
1.		\$	\$	\$	\$	\$
2.		\$	\$	\$	\$	\$
3.		\$	\$	\$	\$	\$
4.		\$	\$	\$	\$	\$
5.		\$	\$	\$	\$	\$
6.		\$	\$	\$	\$	\$
7.		\$	\$	\$	\$	\$
8.		\$	\$	\$	\$	\$
9.		\$	\$	\$	\$	\$
10.		\$	\$	\$	\$	\$
11.		\$	\$	\$	\$	\$
12.		\$	\$	\$	\$	\$
13.		\$	\$	\$	\$	\$
14.		\$	\$	\$	\$	\$
TOTALS		\$	\$	\$	\$	\$

**B. TOTAL EXPENDITURE AMOUNT (Combined Project Detail Totals):** \$ \_\_\_\_\_

**C. CERTIFICATIONS**

I certify, as the LEA Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized representative by the governing board of the LEA as of \_\_\_\_\_; and,
- The LEA has on file all appropriate support documentation as stipulated in the General Information and Required Documentation section on this form and will make these documents available in the event the OPSC requests them for purposes of audit; and,
- The repairs in this project were necessary to mitigate conditions that posed a threat to the health and safety of pupils or staff while at school; and,
- The expenditures reported are within the original scope of the work identified in the Grant Request for this project; and,
- The LEA has complied with all laws pertaining to the repair of its school facilities; and,
- The LEA has complied with the Public Contract Code; and,
- The LEA has satisfied the supplement, not supplant requirement as defined in Section 1859.328; and,
- The expenditures for this project did not duplicate expenditures included in a School Facility Program, Deferred Maintenance Program or ERP project; and,
- The construction activities for this project(s) are completed; and,
- The LEA has complied with Regulation Section 1859.323.1 when replacing systems or components and has obtained a cost comparison which is on file at the LEA office for OPSC review; and,
- The LEA has complied with Regulation Section 1859.323.2(h) when making repairs to leased facilities; and
- The contracts for services or work in this project were not entered into prior to the date specified in Section 1859.324; and,
- The LEA understands that expenditures occurring after the submittal of this Expenditure Report are ineligible for reimbursement; and,
- Unless the project is determined to require a Grant Adjustment pursuant to ERP regulations Section 1859.234.1, that the grant amount previously provided by the Board shall be deemed a full and final apportionment, and that all Grant Adjustments are full and final; and,
- The LEA understands that some or all of the funding for the project may be returned to the State as a result of an audit pursuant to Regulation Sections 1859.326 and 1859.327; and,
- The LEA has obtained the Division of State Architect's approval of the plans and specifications, if required, which are on file at the LEA office for OPSC review; and
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

NAME OF LEA REPRESENTATIVE (PRINTED OR TYPED)	TITLE		
SIGNATURE OF LEA REPRESENTATIVE	DATE		
ADDRESS	CITY	STATE	ZIP
TELEPHONE NUMBER	E-MAIL ADDRESS		

## **FINDING OF EMERGENCY**

The State Allocation Board (SAB) finds that an emergency exists, and that the proposed regulations are necessary for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

### **Specific Facts Showing the Need for Immediate Action**

The State Allocation Board (SAB), at its January 24, 2007 meeting, adopted proposed emergency regulations for the purpose of implementing statutory changes to the Emergency Repair Program (ERP) as a continuation of the provisions of the Williams lawsuit settlement, pursuant to Assembly Bill (AB) 607, Chapter 704, Statutes of 2006 (Goldberg). Eligible projects must be for emergency correction of health and safety hazards on California school sites.

Education Code Section 17592.72(c)(1) specifies that, "emergency facilities needs" means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repairs or replacements:

- (A) Gas leaks.
- (B) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.
- (C) Electrical power failure.
- (D) Major sewer line stoppage.
- (E) Major pest or vermin infestation.
- (F) Broken windows or exterior doors or gates that will not lock and that post a security risk.
- (G) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff.
- (H) Structural damage creating a hazardous or uninhabitable condition.

Pursuant to SB 6, beginning with Fiscal Year 2005/06, annual funding has been appropriated for the ERP from the Proposition 98 Reversion Account and will continue until \$800 million has been expended from the ERP account. Implementing these proposed AB 607 statutory amendments will increase the utilization rate of the ERP funds and facilitate the completion of much needed emergency health and safety repair projects.

The proposed regulations allow Local Educational Agencies (LEAs) to request grant funding under the ERP for eligible projects. This will encourage increased participation in the ERP and expedited funding to help ensure that all California school children have equal access to safe, clean, and functional school facilities. The ERP will continue to operate as a reimbursement program which allows reimbursement of funds already expended by LEAs. The useable life of California school facilities will be extended as school districts accomplish ERP repair and replacement projects. Further, all of the projects are critical and time sensitive in nature.

Since the inception of the ERP, the SAB has apportioned \$312.3 million worth of projects such as roofing, ventilation systems, communication/security systems, termite infestations,

underground gas leaks, fire alarm systems, structural damage due to water damage, exposure to asbestos and lead paint, inadequate indoor air quality due to moisture/humidity, mold on walls/ceiling, rat infestations, clogged sewer lines/toilets/sinks/drinking fountains, and flea infestations to name a few.

AB 607, Chapter 704, Statutes of 2006, also stipulates that beginning with the 2007/08 Fiscal Year (July 1, 2007), school sites will be added to or removed from the deciles 1-3 list that the California Department of Education (CDE) maintains. This list will be updated every three years based on information submitted to the CDE from the county superintendents.

There are currently 2,340 ERP applications on the workload list, which equates to \$29,759,631. The OPSC has been working diligently on these applications and there will be 1,390 applications scheduled for presentation to the Board at its June 27, 2007 SAB meeting.

### **Authority and Reference Citations**

Authority: Section 17592.73 of the Education Code, and Section 15503 of the Government Code.

Reference: Sections 17592.70, 17592.71, 17592.72 and 17592.73 of the Education Code.

### **Informative Digest/Policy Overview Statement**

The State Allocation Board (SAB) at its January 24, 2007 and March 28, 2007 meetings adopted proposed emergency regulations for the purpose of implementing statutory changes to the Emergency Repair Program (ERP) as a continuation of the provisions of the Williams lawsuit settlement, pursuant to Assembly Bill 607, Chapter 704, Statutes of 2006. The amendments will enable local educational agencies to request grant funding under the ERP for eligible repair and replacement projects, encourage increased ERP participation, and expedite funding to help ensure that all California school children have equal access to safe, clean, and functional school facilities.

Upon project completion, every project will require submittal and verification of costs expended, with provision for return to the State of any over-apportionments within 60 days. Additionally, AB 607 requires the list of schools eligible to participate in the ERP (deciles 1 through 3 on the Academic Performance Index as determined by the CDE) to be updated every three years. Limited funding will be permitted for applicants' costs to prepare and submit application documents for ERP funding.

The proposed regulatory amendments and adoption of new sections are as follows:

Existing Regulation Section 1859.302 defines words and terms that are essential to these regulations. The proposed amendments add definitions of "Grant" and "Grant Adjustment" for ERP apportionments, and define the proposed revised Form SAB 61-03 and new Form SAB 61-04.



Existing Regulation Section 1859.318 specifies the permissible uses of the Needs Assessment Grant funds. The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs.

Existing Regulation Section 1859.320 describes the ERP as funding for qualifying LEAs to repair or replace structural components or building systems that pose a health and safety threat, and require the submittal of Form SAB 61-03 to apply for ERP funding. The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs, and delete a sentence which is no longer applicable due to the revised Form SAB 61-03.

Existing Regulation Section 1859.321 describes the eligibility of LEAs to apply for ERP funding for schools which meet specified criteria, including ranking by the California Department of Education (CDE) in deciles 1 to 3 on the 2003 Academic Performance Index. The proposed amendment specifies that for later fiscal years, eligibility will be determined by a later year's Academic Performance Index as determined by the CDE pursuant to Education Code Section 17592.72.

Existing Regulation Section 1859.322 describes the process for the SAB to receive and approve ERP funding applications, the ordering of approved projects for available program funding, the prorating of apportionments and creation of an Unfunded List when program funds are insufficient. The proposed amendments specify how Grant Adjustments will be processed and funded in the order of OPSC's receipt of completed Forms SAB 61-04 from LEAs.

Existing Regulation Section 1859.323 provides that ERP reimbursement will be provided to LEAs for their share of repair costs for Emergency Facilities Needs as defined in Education Code Section 17592.72(c)(1); and for replacement of structural components or building systems if in compliance with Section 1859.323.1. Reimbursement is limited to the cost necessary to mitigate the health and safety hazard. The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs, and add a minimum ERP funding eligibility level of \$5,000 total project costs unless the LEA can justify its request for a lesser amount.

At its March 28, 2007 meeting, the SAB proposed further amendments to Regulation Section 1859.323 to permit ERP funding for application documentation preparation and submittal costs as limited under Regulation Section 1859.323.2(j).

Existing Regulation Section 1859.323.1 prescribes criteria for replacement projects to qualify for ERP funding, taking into account the cost effectiveness of replacement versus repair, and the use of like-kind materials/systems or alternative materials/systems. The proposed amendments clarify the allowable funding depending upon the availability and comparative costs of such repairs and/or replacements, and delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs.

Existing Regulation Section 1859.323.2 lists expenditures which are ineligible for funding under the ERP. At its March 28, 2007 meeting, the SAB proposed an amendment adding subsection (j) limiting application documentation preparation and submittal costs to two percent of the total project cost or \$5,000, whichever is less.

Existing Regulation Section 1859.324 sets forth time limits for emergency repair projects to be eligible for ERP funding depending upon dates contracts were entered into and dates project costs were expended. The proposed amendments add corresponding time limits for ERP submittals under later years' Academic Performance Indices as determined by the CDE, and delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs.

Proposed adoption of Regulation Section 1859.324.1 specifies that an Office of Public School Construction (OPSC) audit of a completed ERP project will require a Grant Adjustment to be presented to the SAB to either return to the State the part of the grant apportionment that exceeded allowable project expenditures, or to recommend increasing the apportionment to the extent allowable project expenditures exceeded the grant apportionment.

Existing Regulation Section 1859.326 authorizes audits of ERP project expenditures for compliance with applicable program regulations. Time limits for commencing and completing audits are set forth. Should an audit find authorized project expenditures were less than the ERP Grant, LEAs must return over-appropriated funds to the State within 30 days. The proposed amendments increase this period to 60 days for LEAs to return over-appropriated funds, and make other conforming wording changes.

Existing Regulation Section 1859.328 specifies the permissible uses of the ERP Grant funds, and that LEAs must comply with listed State School Deferred Maintenance Program funding requirements. The proposed amendments specify that LEAs must comply with the listed requirements upon submitting their *Expenditure Report*, Form SAB 61-04, and delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs.

Existing Regulation Section 1859.329 permits a LEA to withdraw, revise, and resubmit its Form SAB 61-03 before the project receives an apportionment from the SAB. The resubmitted application receives a new, later processing date from the OPSC. Revising the Form SAB 61-03 after SAB approval of a project apportionment cannot authorize additional funding for the project. The proposed amendments allow LEAs to submit Form SAB 61-04, after the SAB Grant Apportionment, to request additional authorized project costs which exceeded those on the Form SAB 61-03.

Proposed adoption of Regulation Section 1859.330 specifies time limits for LEAs which receive ERP Grants to complete the project and submit the Form SAB 61-04, *Expenditure Report*, to the OPSC. The time limit is 12 months from the Grant apportionment if review and approval from the Division of the State Architect (DSA) is not required, and 18 months from the Grant apportionment if review and approval from the DSA is required. Apportionments will be rescinded for failure to meet these time limits, but rescinded projects may be re-filed if still eligible at the time of re-filing.

Existing Form SAB 61-03, *Application for Reimbursement and Expenditure Report*, is required to be submitted by LEAs to apply for ERP funding for repair and replacement costs. The LEA representative must sign certifications of correct information, program compliance, and Public Contract Code compliance. The proposed amendments rename the form "*Grant Request*," revise the narrative and data fields to accommodate either grant or reimbursement funding requests, delete expenditure reporting, and reduce the form from five to three pages.

Proposed adoption of Form SAB 61-04, *Expenditure Report* (New 01/07), is submitted by LEAs to report expenditures under the ERP that support the grant previously received. The proposed form lists supporting documents which the applicant should retain on file and which may be requested upon a close-out audit by the OPSC. The proposed form also sets forth certifications of compliance with law and regulations to which the applicant's representative must sign.

### **Mandate on Local Agencies or School Districts**

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

### **Cost Estimate**

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact that might result from the proposed regulatory actions and it has been determined that:

- There will be no costs or savings to the State.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.

### **Technical Documents Relied Upon**

The State Allocation Board's Action item, dated January 24, 2007, entitled "Assembly Bill 607 Amendments to Emergency Repair Program Regulations."